

Guide to statutory interpretation

1. Commencement

Does the Act provide a commencement date?

If the Act does not specifically state a commencement date, rely on S3(2) of the ACA

"An Act (other than an Act to alter the Constitution) commences on the 28th day after the day on which that Act receives the Royal Assent."

Remember that an Act does not operate retrospectively. ⚡ this is a strong presumption and is illustrated in *Rodriguez v The Queen*

"The rule of common law is that a statute ought not be given a retrospective operation where to do so would affect an existing right or obligation"

However, this presumption is limited if the statute affects procedure. This is again outlined in *Rodriguez v The Queen*

"Where procedure alone is involved, a statute will invariably operate prospectively"

2. Break up the provision

List each element needed to satisfy a section of the Act

3. Non-contentious issues

If there are non-contentious issues, deal with them rapidly

Refer to definitions provided in the Act and in the ACA (S28-3)

4. Contentious issues – the contextual approach

Under *CR* *Heydon v EBF v Hainesworth Goodhart (Eds) Ltd*

"The modern approach to statutory interpretation . . . insists that the context be considered in the first instance"

Start with the ordinary and natural meaning of the words. This relies on definitions.

Remember to note whether a definition is open or closed and how this impacts the meaning of the provision. Do so in the following order:

Definition section of the Act

Definition section of the ACA

Judicial interpretation

Re-enactment constitutes approval of previous judicial interpretation. ⚡ weaker presumption

Its limitations are outlined in *Falvey v Grogan*:

"Where amendments of a statute not involving any re-enactment of the words in question could validly or even constitute approval of an interpretation of those words"

"At most, the principle affords a presumption of no great weight concerning the meaning of the words and against the reliance upon or perpetuation an erroneous construction"

Guide To Statutory Interpretation Student Guide Series

Sharon Hanson



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The Siri Method Aaron Siri, 2007 *Guide to Statutory Interpretation* Michael Sinclair, 2000 **The Routledge Student Guide to English Usage** Stewart Clark, Graham Pointon, 2016-05-20 The most comprehensive and user friendly guide to English usage available specifically tailored to the needs of students in Higher education Comparative approach as opposed to a dictionary format allows the student reader to quickly resolve issues around commonly confused words Includes extensive examples from the most widely used corpora the British National Corpus and the Corpus of Contemporary American English *Resources in Education*, 1997 **Understanding Criminal Procedure** Joshua Dressler, 2002

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Table of Contents Guide To Statutory Interpretation Student Guide Series

1. Understanding the eBook Guide To Statutory Interpretation Student Guide Series
 - The Rise of Digital Reading Guide To Statutory Interpretation Student Guide Series
 - Advantages of eBooks Over Traditional Books
2. Identifying Guide To Statutory Interpretation Student Guide Series
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Guide To Statutory Interpretation Student Guide Series
 - User-Friendly Interface
4. Exploring eBook Recommendations from Guide To Statutory Interpretation Student Guide Series
 - Personalized Recommendations
 - Guide To Statutory Interpretation Student Guide Series User Reviews and Ratings
 - Guide To Statutory Interpretation Student Guide Series and Bestseller Lists
5. Accessing Guide To Statutory Interpretation Student Guide Series Free and Paid eBooks

- Guide To Statutory Interpretation Student Guide Series Public Domain eBooks
- Guide To Statutory Interpretation Student Guide Series eBook Subscription Services
- Guide To Statutory Interpretation Student Guide Series Budget-Friendly Options
- 6. Navigating Guide To Statutory Interpretation Student Guide Series eBook Formats
 - ePub, PDF, MOBI, and More
 - Guide To Statutory Interpretation Student Guide Series Compatibility with Devices
 - Guide To Statutory Interpretation Student Guide Series Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Guide To Statutory Interpretation Student Guide Series
 - Highlighting and Note-Taking Guide To Statutory Interpretation Student Guide Series
 - Interactive Elements Guide To Statutory Interpretation Student Guide Series
- 8. Staying Engaged with Guide To Statutory Interpretation Student Guide Series
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Guide To Statutory Interpretation Student Guide Series
- 9. Balancing eBooks and Physical Books Guide To Statutory Interpretation Student Guide Series
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Guide To Statutory Interpretation Student Guide Series
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Guide To Statutory Interpretation Student Guide Series
 - Setting Reading Goals Guide To Statutory Interpretation Student Guide Series
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Guide To Statutory Interpretation Student Guide Series
 - Fact-Checking eBook Content of Guide To Statutory Interpretation Student Guide Series
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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